

AN ORDINANCE

BY H. Shul

AN ORDINANCE AUTHORIZING THE APPROVAL OF AN INTEREST RATE MANAGEMENT PLAN, THE FORM OF QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT, THE EXECUTION AND DELIVERY OF ONE OR MORE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS AND RELATED DOCUMENTS, THE TERMINATION OF THE CANCELLATION OPTION IN CONNECTION WITH CERTAIN BONDS, AND FOR OTHER RELATED PURPOSES.

WHEREAS, the City of Atlanta, Georgia (the "City") is a legally created and existing municipal corporation of the State of Georgia; and

WHEREAS, it is proposed that the City approve an "Interest Rate Management Plan" pursuant to O.C.G.A. 36-82-250 et seq. (the "Hedge Management Plan") to establish certain guidelines with respect to the City entering into a cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk with respect to the issuance of certain bonds; and

WHEREAS, such Hedge Management Plan has been prepared by Investment Management Advisory Group, Inc. ("IMAGE") and Woodward Peachtree Capital Partners, Inc. ("Woodward"), each an independent swap advisor (IMAGE and Woodward are herein referred to as the "Swap Advisors"); and

WHEREAS, neither IMAGE nor Woodward is a counterparty, an affiliate or agent of a counterparty, on any interest rate management agreement with respect to which it is advising the City; and

WHEREAS, there has been presented to the Mayor and City Council (the "Council") proposed form of the Hedge Management Plan; and

WHEREAS, it appears that the Hedge Management Plan hereinabove referred to, which document is now before the Council, is in appropriate form and is an appropriate document for the purposes intended;

WHEREAS, in 2001, the City issued its \$335,640,000 Water and Wastewater Revenue Bonds, Series 2001B (the "Series 2001B Bonds") and the City's \$105,705,000 Water and Wastewater Revenue Bonds, Series 2001C ("Series 2001C Bonds," and together with the Series 2001B Bonds, the "Bonds"); and

WHEREAS, at the time of the issuance of the Bonds, the City entered into interest rate swap agreements relating to the Bonds to manage the City's interest rate exposure with respect to the Bonds (the "2001 Swap");

WHEREAS, in order to lower borrowing costs and create a stronger interest rate hedge, the City is now considering entering into certain additional interest rate swap transactions in accordance with the Hedge Management Plan to manage the City's interest rate exposure with respect to the Bonds (the "2006 Transaction"); and

WHEREAS, it is proposed that in order to facilitate the 2006 Transaction, the City will enter into one or more ISDA Master Agreements, dated on or before the trade date of the 2006 Transaction, with a counterparty or counterparties to be selected by the City (collectively, the "Counterparty"), together with the Schedule or Schedules to each of the ISDA Master Agreements, dated on or before the trade date of the 2006 Transaction, between the Counterparty and the City, together with one or more Credit Support Annexes, dated on or before the trade date of the 2006 Transaction, between the Counterparty and the City (collectively, the "ISDA Agreement"); and

WHEREAS, pursuant to the terms of the ISDA Agreement, the City will enter into one or more constant maturity swaps and will exchange a floating rate based on weekly Bond Market Association Municipal Swap Index ("BMA") for a floating rate based on a percentage of 10 year BMA;

WHEREAS, the ISDA Agreement will comply with all applicable covenants contained in the bond ordinance securing the Bonds;

WHEREAS, the City has determined to award the selection of the Counterparty on a negotiated basis to qualified banks, insurance companies or other financial institutions in accordance with O.C.G.A. 36-82-250; and

WHEREAS, prior to the execution and delivery of the ISDA Agreement, the City shall receive a legal opinion to the effect that such ISDA Agreement will be a valid obligation of the City;

WHEREAS, the City's Swap Advisors have informed the City that the ISDA Agreement is in compliance with the Hedge Management Plan; and

WHEREAS, it appears that the 2006 Transaction and the ISDA Agreement hereinabove referred to, which documents are now before the Council, are in appropriate form and are appropriate documents for the purposes intended;

WHEREAS, the Mayor wishes to delegate to the Chief Financial Officer the authority as the Mayor's designee to finalize the details of the 2006 Transaction within certain conditions and parameters and to execute and deliver the forms of the ISDA Agreement;

WHEREAS, in connection with the Series 2001B Bonds, UBS AG ("UBS") has the right to exercise an option to cancel the 2001 Swap relating to the Series 2001B Bonds if the average BMA exceeds 7% over a six month period (the "Cancellation Option");

WHEREAS, the City desires to eliminate the Cancellation Option from the 2001 Swap relating to the Series 2001B Bonds and agrees to make any required adjustments to the 2001 Swap and any required payments to UBS in connection with such elimination;

NOW, THEREFORE, the City Council of the City of Atlanta, Georgia hereby ordains as follows:

Section 1. Approval of Hedge Management Plan. The Hedge Management Plan, in the form presented to the Council at this meeting and attached hereto as Exhibit A, is hereby approved.

Section 2. Findings. It is hereby ascertained, determined and declared that the ISDA Agreement is in compliance with the Hedge Management Plan.

Section 3. Approval of the ISDA Agreement and the 2006 Transaction. The execution, delivery and performance of the ISDA Agreement and the 2006 Transaction in order to manage the City's interest rate exposure with respect to the Bonds by and between the City and the Counterparty, be and the same are hereby approved; provided, however, that any Confirmation (as defined in the ISDA Agreement) must be approved by the Mayor or the Chief Financial Officer of the City prior to the effectiveness of an individual Transaction (as defined in the ISDA Agreement). The ISDA Agreement shall be in substantially the form attached hereto as Exhibit B, subject to such minor changes, insertions or omissions as may be approved by the Mayor and the Counterparty prior to execution and delivery thereof. Execution of the ISDA Agreement by the Mayor shall be conclusive evidence of any such approval by the City. The Chief Financial Officer or the Director of Municipal Finance is hereby authorized to verbally accept the floating rate used to calculate amounts payable by the City on the 2006 Transaction prior to the preparation of a Confirmation relating to the 2006 Transaction.

Section 4. Selection of Counterparty via Negotiated Basis. The Chief Financial Officer, the Director of Municipal Finance and the Mayor are hereby authorized to select the Counterparty on a negotiated basis in accordance with criteria deemed necessary by the City including but not limited to creditworthiness, minority participation and price. The Counterparty shall be a bank, insurance company or other financial institution duly qualified to do business in the State of Georgia pursuant to O.C.G.A. 36-82-250.

Section 5. Termination of Cancellation Option. The termination of the Cancellation Option is hereby approved, and the execution, delivery and performance of any and all documents, certificates and other instruments, including but not limited to an amended and restated confirmation, relating to such termination are hereby approved. The City hereby approves the payment of all amounts due, if any, to UBS in connection with the termination of the Cancellation Option.

Section 6. Authority. The Mayor, Chief Financial Officer, the Chief of Debt and Investment, the City Attorney and the Municipal Clerk of the City are hereby authorized and directed to do all acts and things and to execute and deliver any and all documents, certificates and other instruments as may be necessary or advisable in order to effectuate the 2006

Transaction. In the event that the Mayor is unable to execute and deliver the ISDA Agreement or any other documents contemplated by the 2006 Transaction, such documents shall be executed and delivered by the respective designee of such officer or official or any other duly authorized officer or official of the City.

Section 7. Authority for Ordinance. This Ordinance is adopted consistent with the procedures established by the Council for entering into hedge agreements with revenue bonds as provided in the Hedge Management Plan, O.C.G.A. 36-82-250 et seq. and the City of Atlanta, Georgia Swap Policy.

Section 8. Report of Chief Financial Officer. After the execution of the ISDA Agreement and the completion of the 2006 Transaction, the Chief Financial Officer shall make a report to the Finance/Executive Committee and all Council members which shall include: (i) the final terms and pricing contained in the ISDA Agreement; and (ii) a listing of all firms which participated in the 2006 Transaction as swap counterparties along with the corresponding amount of their participation.

Section 9. Repealing Clause. All ordinances or parts thereof of the Council in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 10. Effective Date. This Ordinance shall take effect immediately upon its adoption.

ADOPTED this 4th day of December, 2006.

CITY OF ATLANTA, GEORGIA

(SEAL)

Mayor

Attest:

Clerk/Deputy Clerk

Approved as to Form:

City Attorney

EXHIBIT A

Hedge Management Plan Attached

CITY OF ATLANTA, GEORGIA

Interest Rate Management Plan

OVERVIEW

In accordance with the requirements under Article 11 of Chapter 82 of Title 36 of the Official Code of Georgia annotated this report has been prepared by Investment Management Advisory Group, Inc. and Woodward Peachtree Capital Partners, Inc., as independent financial advisors (the “Swap Advisors”) to the City of Atlanta, Georgia (the “City”) with respect hereto and shall serve as the Interest Rate Management Plan (the “Plan”) of the City. This Plan shall cover the use of two Qualified Interest Rate Management Agreements (“QIRMA”) by the City in the form of basis swaps as detailed below and the amendment of an existing swap agreement with UBS AG. The Plan has been developed in accordance with the City’s existing Swap Policy dated April of 2005 (the “Swap Policy”) and will serve to supersede Resolution 01-R-0156 adopted by City Council on February 5, 2001.

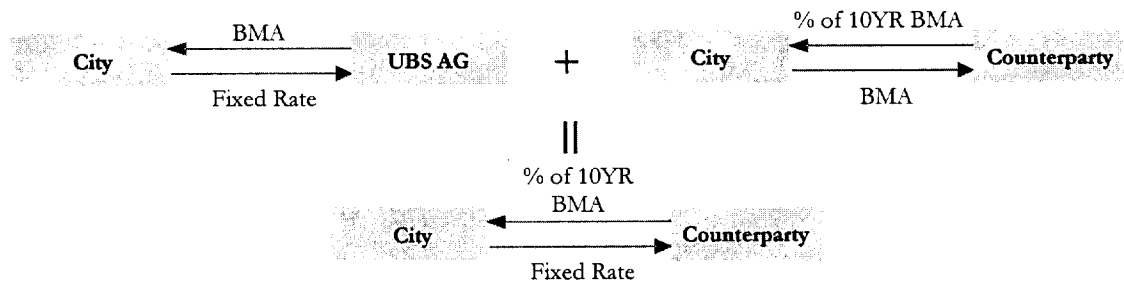
This analysis has been performed with regard to two QIRMAs (“the 2006 Constant Maturity Swaps”) that the City will consider on December 4, 2006 as well as the amendment of an existing swap agreement. The City anticipates executing the 2006 Constant Maturity Swaps for the purposes of managing interest rate costs on its \$335,640,000 Water and Wastewater Revenue Bonds, Series 2001B (Variable Rate Demand) (the “2001B Bonds”) and \$105,705,000 Water and Wastewater Revenue Bonds, Series 2001C (Variable Rate Demand) (the “2001C Bonds,” and together with the Series 2001B Bonds, the “Bonds”).

BACKGROUND

In December of 2001, the City executed two interest rate management agreements (floating-to-fixed rate swaps) with UBS AG for the purpose of synthetically fixing the borrowing cost on the Bonds (the “2001B Swap” and “2001C Swap”, collectively the “2001 Swaps”). Under the 2001B Swap, the City agreed to (i) pay a fixed rate to UBS AG (4.09%) and (ii) receive a variable rate equal to 67% of USD-LIBOR-BBA having a one-month maturity. Under the 2001C Swap, the City agreed to (i) pay a fixed rate to UBS AG (4.09%) and (ii) receive a variable rate equal to the Bond Market Association Municipal Swap Index (“BMA”). The 2001 Swaps were structured such that the variable rates received by the City under the swap agreements are expected to substantially offset the variable remarketing rates on the Bonds resulting in a synthetic fixed rate equal to the fixed rate of 4.09% for both series of the Bonds.

THE 2006 CONSTANT MATURITY SWAPS

Under the 2001 Swaps, the City has agreed to pay a predetermined fixed rate to UBS AG in exchange for receiving a variable rate based upon 67% of 1M LIBOR in the case of the 2001B Swap or BMA in the case of the 2001C Swap, each of which is intended to match the actual variable rate payable by the City on the 2001B Bonds and 2001C Bonds respectively. The City is entering into two constant maturity swaps one each to match the terms and notional amortization schedule of the 2001B Swap (the “2001B CMS”) and the 2001C Swap (the “2001C CMS”) and together with the 2001B CMS the “CMS”) for the purpose of managing interest cost on the Bonds by taking advantage of the relatively flat yield curve which exists in today’s market. The shape of today’s yield curve makes it possible for the City to enter into a CMS under which it will pay to a counterparty a variable rate equal to BMA and receive a percentage (approximately 85% and to be determined at the time of final pricing) of the 10YR BMA at historically attractive levels. The CMS will be structured with a forward start date with the intent of allowing time for the yield curve to potentially approach or return to its historic average shape prior to the commencement of cashflows. As structured, the CMS will have the effect of converting the 2001 Swaps receiver rates to reference a longer point on the yield curve.



By executing the CMS, the City will introduce “Yield Curve Risk” to its existing debt structure in exchange for expected cashflow benefit over the life of the transaction. Based on historical levels over the past 14 years, the City can be expected to achieve a cashflow benefit from the CMS over the term of the Bonds. It is important to note that although historic performance of the proposed structure would have resulted in significant positive cashflow to the City, the CMS will periodically result in a negative cashflow to the City in certain market environments and could result in significant negative cashflows in extreme situations i.e. yield curve inversion. Risks related to the CMS are discussed more fully herein.

AMENDMENT OF 2001B SWAP AGREEMENT

The City’s 2001B Swap was originally structured with a “Barrier Option” which would allow UBS AG to terminate the swap on the first of any month commencing May 1, 2009 if BMA for the preceding 180 days has averaged greater than 7.00%. Such termination would

extinguish all rights and obligations of the City and UBS AG under the agreement. If executed, this option would put the City into an unhedged variable rate mode on the 2001B Bonds in what would likely be a historically high interest rate environment. Given that the City is nearing its limitation on variable rate exposure, it will consider the amendment of the 2001B Swap agreement to remove the Barrier Option and the resultant contingent liability. The option buyback will require a payment to UBS AG in the form of either a one-time cash payment from the City or an amendment to increase the fixed rate on the swap from 4.09%.

APPROVAL AND EXECUTION

Through approval by resolution at its December 4, 2006 City Council meeting, the City intends to approve this Plan, substantially final QIRMA documents, and to authorize the Mayor, Chief Financial Officer, the City Attorney and the Municipal Clerk of the City to do all acts and things and to execute and deliver any and all documents, certificates and other instruments as may be necessary or advisable in order to effectuate the 2006 Transaction. In the event that the Mayor is unable to execute and deliver the ISDA Agreement or any other documents contemplated by the 2006 Transaction, such documents shall be executed and delivered by the respective designee of such officer or official or any other duly authorized officer or official of the City.

Furthermore the resolution will authorize the Chief Financial Officer, the Chief of Debt and Investments, the Director of Municipal Finance and the Mayor to select the CMS counterparties on a negotiated basis in accordance with criteria deemed necessary by the City including but not limited to creditworthiness, minority participation and price. The Counterparty shall be a bank, insurance company or other financial institution duly qualified to do business in the State of Georgia pursuant to O.C.G.A. 36-82-250.

RISK ANALYSIS — CMS

This section reviews the risks of the 2001 Swaps and the CMS.

1. Interest Rate — The risk that a generally adverse move in variable rates increases the overall cost of borrowing or that credit concerns relating to the City have the same impact. Executing the CMS will increase such exposure. The City will monitor its exposure to Interest Rate Risk and take steps to further mitigate such risks in the event this exposure results in significant negative financial impact.
2. Counterparty Credit — The risk that the counterparty will not perform pursuant to the contract's terms. Under the 2001 Swaps, for example, if the counterparty defaults, the City could be exposed to an unhedged variable rate bond position ultimately resulting in Interest Rate Risk and potentially Termination Risk. Safeguards (such as collateral posting requirements for parties rated below "AA-" / "Aa3" and rating related Additional Termination Events (i.e. if the counterparty's credit rating falls below "BBB" or "Baa")) have been built into

the swap documents to protect the City from Counterparty Risk. Counterparty Credit Risk applies to all of the City's swaps currently outstanding and the CMS. Proper monitoring of such risk by the City and adherence to the documents and its Swap Policy will allow the City to manage Counterparty Risk exposure.

3. Termination — The risk that a swap could be terminated (while valued in favor of or against the City) as a result of any of several events, which may include a ratings downgrade for the City or its counterparty, covenant violation by either party, bankruptcy of either party, swap payment default of either party, and other default events as defined by the documents. Any such termination may require the City to make significant termination payments in the future. Termination Risk applies to all of the City's outstanding swaps and the CMS.
4. Basis — Not applicable to the CMS.
5. Tax — Not applicable to the CMS.
6. Market Access — Not applicable to the CMS.
7. Liquidity / Remarketing — The risk that the City cannot secure a cost-effective renewal of a liquidity facility for the variable rate bonds or suffers a failed auction or remarketing with respect to the Bonds. Liquidity/Remarketing Risk applies only to the 2001 Swaps and may result in exposure to Termination Risk on the 2001 Swaps and the CMS.
8. Amortization Risk — The risk of the potential cost to the City of servicing debt or honoring swap obligations resulting from a mismatch of outstanding bonds and the notional amount of an outstanding swap. Amortization Risk occurs to the extent bond and swap notional amounts become mismatched over the life of a transaction. In the very unlikely event of amortization mismatches, the City could potentially be forced to terminate all or a portion of a swap in unfavorable market conditions.
9. Interest Rate Curve Risk — Because the CMS transactions take advantage of the relationship between long and short term rates, Interest Rate Curve Risk will be introduced. Interest Rate Curve Risk occurs when the BMA interest rate yield curve (the level of interest rates for different maturities) becomes inverted, i.e., interest rates on short-term maturities are higher than long term maturities. The CMS capitalizes on the current flat yield curve (the current spread between short term maturities and long term maturities is near historical lows). Should the BMA yield curve remain relatively flat or invert for a significant period of time, the benefits of the CMS will be negatively impacted and result in negative cashflows. Although historic data suggests that the CMS will produce positive cashflows to the City, past performance is not indicative

of future results. Interest Rate Curve Risk is not applicable to the City's existing swaps.

*The City intends to monitor its swaps on an ongoing basis in accordance with this Plan and its existing Swap Policy to avoid excessive exposure to any of the foregoing risks.

ONGOING MONITORING AND MAINTAINING CURRENT RECORDS

Article 11 of Chapter 82 of Title 36 of the Official Code of Georgia annotated requires the City to monitor and disclose certain information relating to interest rate risk, basis risk, termination risk, credit risk, market-access risk and other risks, including the valuation of the market and termination cost/value of swaps payable by the City. The Swap Advisors recommend that the City maintain a qualified swap advisor to monitor, report and document the following items, including coordinating such matters with the City's auditors and financial personnel, on no less than an annual basis:

1. Maintain a database of existing City's swaps including a description of all outstanding interest rate swap agreements, including related bond series, type of swap, rates paid and received by the City, total notional amount, average life of each swap agreement, remaining term of each swap agreement.
2. Material changes to swap agreements .
3. Termination exposure of each of the City's swaps.
4. Credit rating of swap counterparties.
5. If applicable, information concerning any potential or actual default by a swap counterparty under the swap documents, including but not limited to the financial impact to the City.
6. If applicable, information concerning any potential or actual default by the City to a swap counterparty under the swap documents, including but not limited to the financial impact to the City.
7. Assist in an election to terminate any of the City's swaps.

The City intends to actively monitor its swaps on no less than a quarterly basis including a review of mark-to-market exposure and an overall review of swap related risks and market conditions.

The City shall conduct an annual review of this Plan as to the adequacy of the procedures in this Plan for the analysis and monitoring requirements. A report summarizing the results of such annual review shall be submitted to the City Council.

MARKET PRICING LETTER

As “Independent Financial Advisors” (as defined in the Act) to the City, Investment Management Advisory Group, Inc. and Woodward Peachtree Capital Partners, Inc. will render an opinion to the City that the financial terms and conditions of the transaction, including the interest rate to be paid or received, are fair and reasonable to the City as of the date of the award. The Swap Advisors regularly monitor and oversee swap transactions by municipal entities throughout the United States and are familiar with the methodology for pricing such transactions. The Swap Advisors will be present on the recorded conference call during which the final terms (particularly the interest rates to be paid by the City and received by the City) will be confirmed and accepted by a City representative. At that time, the Swap Advisors will orally confirm the fairness and reasonableness of the financial terms, which will subsequently be confirmed in a written letter of the Swap Advisors.

FEES TO SWAP ADVISORS

The City entered into a Swap Advisory Contract with Investment Management Advisory Group, Inc. and Woodward Peachtree Capital Partners, Inc. to provide advisory services for derivative transactions. Said contract, FC-6005007964 provides for the payment of fees on a per swap basis and has been awarded via a competitive process. Swap Advisory fees payable on the transaction discussed herein will adhere to the fee schedule detailed in the Swap Advisory Contract.

EXHIBIT B

Form of ISDA Agreement Attached

This Agreement shall only apply to Transactions between the parties relating to revenue bonds issued under the Master Bond Ordinance adopted by Party B on March 31, 1999, as supplemented and amended by the First Supplemental Bond Ordinance adopted by Party B on March 05, 2001, the Series 2001 Bond Ordinance adopted by Party B on December 05, 2001 and as each may hereafter be supplemented and amended (collectively the "Bond Ordinance").

SCHEDULE

to the Master Agreement
(Local Currency-Single Jurisdiction)

dated as of December __, 2006

between

TBD

and

CITY OF ATLANTA, a municipal
corporation created under the
laws of the State of Georgia

("Party A")

("Party B")

Part 1 Termination Provisions

In this Agreement:

- (a) "**Specified Entity**" means in relation to Party A for the purpose of:

Section 5(a)(v),	NONE
Section 5(a)(vi),	NONE
Section 5(a)(vii),	NONE
Section 5(b)(ii),	NONE

and in relation to Party B for the purpose of:

Section 5(a)(v),	NONE
Section 5(a)(vi),	NONE
Section 5(a)(vii),	NONE
Section 5(b)(ii),	NONE

- (b) "**Specified Transaction**" shall have the meaning specified in Section 12 of this Agreement provided, however, that "Specified Transaction" with respect to Party B, shall include only those Transactions secured by and payable from Pledged Revenues.

- (c) The "**Cross Default**" provisions of Section 5(a)(vi) of this Agreement, as modified below, will apply to Party A and to Party B. Section 5(a)(vi) of this Agreement is hereby amended by the addition of the following at the end thereof:

"provided, however, that, notwithstanding the foregoing, an Event of Default shall not occur under either (1) or (2) above if (A) (I) the default, or other similar event or condition referred to in (1) or the failure to pay referred to in (2) is a failure to pay or deliver caused by an error or omission of an administrative or operational nature, and (II) funds or the asset to be delivered were available to such party to enable it to make the relevant payment or delivery when due and (III) such payment or delivery is made within three (3) Local Business Days following receipt of written notice from an interested party of such failure to pay, or (B) such party was precluded from paying, or was unable to pay, using reasonable means, through the office of the party through which it was acting for purposes of the relevant Specified Indebtedness, by reason of force majeure, act of State, illegality or impossibility."

If such provisions apply:

"Specified Indebtedness" means (i) with respect to Party A, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) for the payment or repayment of any money and (ii) with respect to Party B, shall include only obligations payable from Pledged Revenues.

"Threshold Amount" means:

- (i) with respect to Party A, an amount equal to 2% of shareholders' equity (howsoever described) of Party A as shown on the most recent annual audited financial statements of Party A and
- (ii) with respect to Party B, \$50,000,000.

(d) **The "Credit Event Upon Merger"** provision of Section 5(b)(ii) will apply to Party A and Party B, and is amended as follows:

"(ii) *Credit Event Upon Merger*. If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity (or, without limiting the foregoing, if X is Party B, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, X, any Credit Support Provider of X or any Specified Entity of X) and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving, transferee or successor entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or", provided that, for purposes of determining whether a Credit Event Upon Merger has occurred with respect to a party, the term "materially weaker" shall mean that the long-term unsecured senior debt rating (not taking into account any third party credit enhancement) of the resulting, surviving, transferee or successor entity fails to be rated by at least two of the following three nationally recognized ratings agencies at or above the following levels (1) Baa2 or higher as determined by Moody's Investors Service,

Inc. (or any successor) ("Moody's"); (2) BBB or higher as determined by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. (or any successor) ("S&P"); and (3) BBB or higher as determined by Fitch, Inc. (or any successor) ("Fitch")."

(e) ***The "Automatic Early Termination"*** provision of Section 6(a) will not apply to Party A or Party B.

(f) ***"Payments on Early Termination"***. For the purpose of Section 6(e) of this Agreement:

- (i) Market Quotation will apply.
- (ii) The Second Method will apply.

(g) ***"Termination Currency"*** means U.S. Dollars.

(h) Section 5 of this Agreement is hereby amended as follows:

(a) Bankruptcy. Section 5(a)(vii)(6) of this Agreement is amended to read in its entirety as follows:

"(6)(A) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets or (B) in the case of Party B, any Credit Support Provider of Party B or any applicable Specified Entity of Party B, (I) there shall be appointed or designated with respect to its water and sewer system, an entity such as an organization, board, commission, authority, agency or body to declare a financial emergency or similar state of financial distress with respect to its water and sewer system or (II) there shall be declared by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of its water and sewer system;"

(b) Merger Without Assumption. Section 5(a)(viii) of this Agreement is hereby amended to read in its entirety as follows:

"(viii) Merger Without Assumption. The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity (or, without limiting the foregoing, if such party is Party B, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, such party or any Credit Support Provider of such Party) and, at the time of such consolidation, amalgamation, merger, transfer or succession:

- (1) the resulting, surviving, transferee or successor entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant

to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving, transferee or successor entity of its obligations under this Agreement."

(i) **Additional Termination Events.** The occurrence of the following event shall constitute an Additional Termination Event:

- (i) With respect to Party B, Party B's long-term, senior, unsecured, unsubordinated debt rating fails to be rated by at least one of the following three nationally recognized ratings agencies at or above the following levels: (1) Baa3 or higher as determined by Moody's; (2) BBB- or higher as determined by S&P; and (3) BBB- or higher as determined by Fitch, and Party B fails to either:
 - a. If at such time permitted by applicable law, post collateral pursuant to a security agreement to be negotiated in good faith and consistent with market practice for similar agreements, such security agreement to provide for a Threshold of \$0 and a Minimum Transfer Amount of \$100,000, within 30 days of being downgraded;
 - b. show evidence of commitment of a swap insurance policy from another entity which is recognized in the swap insurance market generally and which has a claims paying ability rating of at least "A" in the case of S&P and Fitch or "A2" in the case of Moody's, within 30 days of being downgraded, and provide such swap insurance policy within 90 days of being downgraded; or
 - c. show evidence of commitment of a letter of credit from another entity which is recognized in the letter of credit market generally and which has a senior unsecured unenhanced debt rating of at least "A-" in the case of S&P and Fitch or "A3" in the case of Moody's, within 30 days of being downgraded, and provide such letter of credit within 90 days of being downgraded.
- (ii) With respect to Party A, Party A's long-term, senior, unsecured, unsubordinated debt rating fails to be rated by at least two of the following three nationally recognized ratings agencies at or above the following levels: (1) Baa2 or higher as determined by Moody's; (2) BBB or higher as determined by S&P; and (3) BBB or higher as determined by Fitch.

Part 2
Agreement to Deliver Documents

For the purpose of Sections 3(d) and 4(a) of this Agreement, each party agrees to deliver the following documents:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Party A and Party B	Evidence of the authority and true signature of each official or representative signing this Agreement or, as the case may be, a Confirmation, on its behalf.	On or before execution of this Agreement and each Confirmation forming a part of this Agreement.	Yes
Party A and Party B	Credit Support Documents described in Part 3(d).	On or before execution and delivery of this Agreement	Yes
Party B	Certified copy of the Resolution of Party B's governing body (or equivalent authorizing documentation) authorizing the execution and delivery of this Agreement and each Confirmation and performance of its obligation hereunder.	On or before execution and delivery of this Agreement	Yes
Party A and Party B	Opinions of legal counsel in a form satisfactory to the other party.	On or before execution and delivery of this Agreement.	No
Party B	Confirmations, updates and additional documentation concerning the opinion of counsel, orders and certificates delivered pursuant to each of the foregoing documents to be delivered, as Party A may reasonably request	Prior to the Effective Date of each Transaction after the initial Transaction hereunder	Yes
Party B	Bond Ordinance	On or before execution of this	Yes

		Agreement	
Party B	Interest Rate Management Plan	On or before execution of this Agreement	Yes
Party A	Written certification that Party A is duly qualified to do business in the State of Georgia	On or before execution and delivery of this Agreement.	Yes
Party A	Evidence of rating	On or before execution and delivery of this Agreement.	Yes
Party B	Written certification that Party A is a Qualified Hedge Provider as defined in the Bond Ordinance	On or before execution and delivery of this Agreement.	Yes

Part 3
Miscellaneous

(a) **Addresses for Notices.** For the purposes of Section 10(a) of this Agreement:

(i) All notices or communications to Party A shall, with respect to a particular Transaction, be sent to the address, telex number, or facsimile number reflected in the Confirmation of that Transaction, and any notice for purposes of Sections 5 or 6 shall be sent to:

TBD

(ii) All notices or communications to Party B shall be sent to the address, or facsimile number reflected below:

City of Atlanta Department of Finance
68 Mitchell Street, S.W., Suite 1100, City Hall Tower
Atlanta, GA 30335
Attention: Chief Financial Officer
Telephone: (404) 330-6454
Facsimile: (404) 658-6667

With a copy to:

Department of Law
68 Mitchell Street, S.W., Suite 4100, City Hall Tower
Atlanta, GA 30335
Attention: City Attorney
Telephone: (404) 330-6469
Facsimile: (404) 330-6471

(b) **Offices.** Party A, if it enters into a Transaction through an Office other than its head or home office represents to Party B that, notwithstanding the place of booking office or jurisdiction of incorporation or organization, the obligations of Party A are the same as if it had entered into the Transaction through its head or home office. This representation will be deemed to be repeated by Party A on each date on which a Transaction is entered into.

(c) **Calculation Agent.** The Calculation Agent is Party A, unless otherwise specified in a Confirmation in relation to the relevant Transaction.

(d) **Credit Support Document.** Credit Support Document shall mean, with respect to

Party B, the Bond Ordinance; and with respect to Party A, the Credit Support Annex attached hereto.

(e) **Credit Support Provider.** Credit Support Provider with respect to Party A means: none. Credit Support Provider with respect to Party B means: none.

(f) **Jurisdiction.** *Section 11(b) of this Agreement is hereby amended to read in its entirety as follows: -*

“(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement (“Proceedings”), jurisdiction over the parties shall lie exclusively in the courts of the State of Georgia or in the applicable federal court having jurisdiction and located within the State of Georgia”

(g) **Governing Law.** This Agreement and each written agreement relating hereto will be governed by and construed in accordance with the laws of the State of Georgia.

(h) **Waiver of Immunities.** The provisions of Section 11(c) shall apply to Party A but not to Party B. In lieu thereof, Party B waives its right to assert the defense of sovereign immunity to any action for the breach of this Agreement.

(i) **Netting of Payments.** Subparagraph (ii) of Section 2(c) of this Agreement will apply.

(j) **"Affiliate"** will have the meaning specified in Section 12 of this Agreement.

Part 4

Other Provisions

(a) **Set-off.** Without affecting the provisions of this Agreement requiring the calculation of certain net payment amounts, all payments under this Agreement will be made without set-off or counterclaim; provided, however, that upon the designation of any Early Termination Date, in addition to and not in limitation of any other right or remedy (including any right to set off, counterclaim, or otherwise withhold payment or any recourse to any Credit Support Document) under applicable law the Non-defaulting Party or Non-affected Party (in either case, "X") may without prior notice to any person set off any sum or obligation (whether or not arising under this Agreement and whether matured or unmatured, whether or not contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by the Defaulting Party or Affected Party (in either case, "Y") to X or any Affiliate of X against any sum or obligation (whether or not arising under this Agreement, whether matured or unmatured, whether or not contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by X or any Affiliate of X to Y and, for this purpose, may convert one currency into another at a market rate determined by X. If any sum or obligation is unascertained, X may in good faith estimate that sum or obligation and set-off in respect of that estimate, subject to X or Y, as the case may be, accounting to the other party when such sum or obligation is ascertained.

(b) (i) **1992 Muni Definitions.** Reference is hereby made to the 1992 ISDA U.S. Municipal Counterparty Definitions (the "1992 Muni Definitions") published by the International Swap Dealers Association, Inc., which is hereby incorporated by reference herein. Any terms used and not otherwise defined herein which are contained in the 1992 Muni Definitions shall have the meaning set forth therein.

(ii) **2000 Muni Definitions.** Reference is hereby made to the 2000 ISDA U.S. Municipal Counterparty Definitions (the "2000 Muni Definitions") published by the International Swap Dealers Association, Inc., which is hereby incorporated by reference herein. Any terms used and not otherwise defined herein which are contained in the 2000 Muni Definitions shall have the meaning set forth therein.

(c) **Inconsistency.** In the event of any inconsistency between any of the following documents, the relevant document first listed below shall govern: (a) a Confirmation; (b) the Schedule to the Master Agreement; (c) the 1992 Muni Definitions; (d) the 2000 Muni Definitions; and (e) the printed form of ISDA Master Agreement.

(d) **Additional Agreements.**

(i) **Compliance with Bond Ordinance.** Party B will observe, perform and fulfill each provision in the Bond Ordinance applicable to it relating to (i) the standards for the incurrence or payment of any indebtedness authorized to be issued under the Bond Ordinance, (ii) the setting or establishment of rates and charges by Party B, (iii) the pledge of revenues and assets or the incurrence of any liens thereon, and (iv) the disposition of revenues and assets, including all defined terms related to, used or included within any such provision as the same are in

effect on the Bond Ordinance Incorporation Date, as any of those provisions may be amended, supplemented or modified for purposes of this Agreement with the prior written consent of Party A (the "Incorporated Provisions"), with the effect that Party A will have the benefit of each of the Incorporated Provisions; *provided, however*, that the incorporation of such provisions does not create a pledge or lien on Pledged Revenues except as set forth in paragraph (h) below.

In the event the Bond Ordinance ceases to be in effect prior to the termination of this Agreement, the Incorporated Provisions (other than those provisions requiring payments in respect of bonds, notes, warrants or other similar instruments issued under the Bond Ordinance) will remain in full force and effect for purposes of this Agreement as though set forth herein until such date on which all of the obligations of Party B under this Agreement and any obligations of Party B or any Credit Support Provider of Party B under a Credit Support Document have been fully satisfied. Any amendment, supplement, modification or waiver of any of the Incorporated Provisions without the prior written consent of the other party hereto shall have no force and effect with respect to this Agreement. Any amendment, supplement or modification for which such consent is obtained shall be part of the Incorporated Provisions for purposes of this Agreement. Notwithstanding the foregoing provisions of this paragraph (d), Party A shall not be entitled to consent to the issuance of (i) Additional Bonds, or (ii) Subordinated Indebtedness, each in accordance with the provisions of the Bond Ordinance.

(ii) Notice of Incipient Illegality. If an Incipient Illegality occurs, Party B will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as the other party may reasonably require.

(iii) Scope of Party B Obligations. Party A acknowledges that the obligations of or arising out of this Agreement are not binding upon any of Party B's elected officials, officers, employees or agents individually, but are binding solely upon the assets and property of Party B, subject to Section 3(h) as specified in Paragraph (e) of this Part 4.

(e) **Additional Representations.**

(i) The first sentence of Section 3 is amended to read in its entirety as follows:

"Each party represents to each other party (which representations will be deemed to be repeated on each date on which a Transaction is entered into and, in the case of the representations in Sections 3(a), 3(e) and 3(f) of this Agreement, at all times until the termination of this Agreement) the following:"

(ii) Section 3 is amended by adding the following subsections (e), (f), (g), and (h) thereto:

(e) Non-Speculation. Party B represents and warrants to Party A that this Agreement has been, and each Transaction hereunder will be, entered into

for purposes of managing its borrowings or investments or in connection with a line of business and not for the purpose of speculation;

(f) No Immunity.

Party B may not assert the defense of sovereign immunity to any action for the breach of this Agreement.

(g) Eligible Contract Participant. Such party is an "eligible contract participant" as the term is defined in Section 1a(12) of the Commodity Exchange Act, as amended; and

(h) Source of Payments

(i) Party B's obligation to pay amounts payable by it pursuant to this Agreement, other than fees, expenses, indemnity payments and amounts payable upon the occurrence of an Early Termination Date ("Hedge Payments"), shall be secured by a pledge of, and lien on, the Pledged Revenues (as defined in the Bond Ordinance) on a parity with the lien created by Section 4.1 of the Master Bond Ordinance to secure the related Hedged Bonds (as defined in the Bond Ordinance and specified in Confirmations), which Pledged Revenues are hereby pledged by Party B for that purpose. All Hedge Payments payable under this Agreement shall be paid from moneys held in or required to be deposited into the Hedge Payments Subaccount of the Payments Account of the Sinking Fund or the Renewal and Extension Fund held under the Bond Ordinance. All other amounts payable by Party B under this Agreement, including fees, expenses, indemnity payments and amounts payable upon the occurrence of an Early Termination Date, shall be secured by a pledge of, and lien on, Pledged Revenues (as such term is defined in the Bond Ordinance) subordinate in lien and right of payment to all Senior Bonds and all Subordinate Bonds (both as defined in the Master Bond Ordinance) issued or to be issued under the Bond Ordinance, and shall be paid solely from moneys held in or required to be deposited into the Renewal and Extension Fund held under the Bond Ordinance.

(ii) All obligations of Party B under this Agreement shall be limited obligations payable solely from the Pledged Revenues, and Party A shall have no recourse against any assets of Party B, other than the Pledged Revenues as herein provided, for the payment of any claims arising under this Agreement. Party B shall not be subject to pecuniary liability on its obligations hereunder. Party B's obligations under this Agreement shall not constitute a general obligation of Party B nor a debt or indebtedness of, or a pledge of the faith and credit of, Party B, within the meaning of any constitutional or statutory provision whatsoever. Neither the faith and credit nor the taxing power of Party B is pledged to the payment of any amounts owed by Party B under this Agreement.

(iii) Party A shall not have the right to compel any exercise of taxing power of Party B, its Credit Support Provider or the State of Georgia to pay any obligations of Party B hereunder, nor to enforce payment thereof against any property of the State of Georgia, Party B or its Credit Support Provider, nor shall any obligations of Party B hereunder constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the State of Georgia, Party B or its Credit Support Provider other than as set forth in this Agreement. Notwithstanding anything contained herein or elsewhere to the contract, the provisions of this Part 4(h)(ii) and 4(h)(iii) shall control all other provisions of this Agreement. Party A acknowledges Parts 4(h)(ii) and 4(h)(iii) in each Confirmation under this Agreement.

(f) **Relationship Between Parties.** Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):

(i) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction; it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of that Transaction.

(ii) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

(iii) **Status of Parties.** The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.

(g) **Waiver of Jury Trial.** EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY TRANSACTION AND ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO THE OTHER PARTY'S ENTERING INTO THIS AGREEMENT.

(h) **Consent to Recording.** Each Party (i) consents to the recording of all telephone conversations between trading, operations and marketing personnel of the parties and their Affiliates in connection with this Agreement or any potential Transaction; (ii) agrees to give notice to such personnel of it and its Affiliates that their calls will be recorded; and (iii) agrees that in any Proceedings, it will not object to the introduction of such recordings in evidence on

grounds that consent was not properly given.

(i) **Scope of Agreement.** Upon the effectiveness of this Agreement, unless otherwise agreed to in writing by the parties to this Agreement with respect to specific Specified Transactions, all Specified Transactions then outstanding or any future Specified Transactions shall be subject to the terms hereof, and each such Specified Transaction shall be a "Transaction" for purposes of this Agreement.

(j) **Severability.** In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The parties shall endeavor, in good faith negotiations, to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

(k) **Additional Definitions.** The following terms shall have the following meanings:

"Bonds" means the City of Atlanta Water and Wastewater System Revenue Bonds, Series 2001B and 2001C.

"Incipient Illegality" means (a) the enactment by any legislative body with competent jurisdiction over Party B of legislation which, if adopted as law, would render unlawful (i) performance by Party B of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Transaction or the compliance by Party B with any other material provision of this Agreement relating to such Transaction or (ii) the performance by Party B or a Credit Support Provider of Party B of any contingent or other obligation which Party B (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction, (b) any official assertion in any proceeding, forum or action by Party B in respect of Party B, that renders performance under this Agreement or similar agreements unlawful or (c) the occurrence with respect to Party B or any Credit Support Provider of Party B of any event that constitutes an Illegality."

"Bond Ordinance" means the Master Bond Ordinance as adopted March 31, 1999 by the City Council of the City of Atlanta, as supplemented.

"Resolution" means the Resolution of the City of Atlanta Council regarding the approval of the Interest Rate Management Plan, form of the ISDA Master Agreement and other related documents on December 4, 2006.

"Interest Rate Management Plan" means the interest rate management plan adopted by Party B pursuant to O.C.G.A. 36-82-250 et.seq., on December 4, 2006 to establish certain guidelines with respect to Party B entering into a cap, collar, swap, and other derivative transaction regarding interest rates that manage interest rate risk with respect to issuance of certain bonds.

(l) **Immunity of Officers, Employees and Councilmembers of Party B.** No recourse shall be had for the payment of any amounts under this Agreement or for any claim based thereon or upon any obligation, covenant or agreement contained in this Agreement against

any past, present or future officer, director, member, employee, or agent of Party B, or of any successor public corporation, either directly or through Party B or any successor public corporation under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, members, employees, or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement. Party A agrees to acknowledge this Part 4(l) in each Confirmation under this Agreement.

Please confirm your agreement to the terms of the foregoing Schedule by signing below.

[TBD]

By: _____
Name:
Title:
Date:

By: _____
Name:
Title:
Date:

CITY OF ATLANTA

(SEAL)

By: _____
Mayor
Date:

Attest:

Municipal Clerk

Approved As To Form:

City Attorney

CLERK'S CERTIFICATE

I, the undersigned Clerk/Deputy Clerk of the Mayor and Council of the City of Atlanta, DO HEREBY CERTIFY that the foregoing pages constitute a true and correct copy of the ordinance duly adopted by the City at a regular meeting held on December 4, 2006, which meeting was open to the public and at which a quorum was present and acting throughout. The original of said ordinance is in my custody and control and said ordinance has not been amended, rescinded or repealed.

WITNESS my hand and official seal this 4th day of December, 2006.

Clerk/Deputy Clerk, Council of City of Atlanta

(SEAL)